



February 27, 2001

HOUSE BILL No. 1383

DIGEST OF HB 1383 (Updated February 26, 2001 5:22 PM - DI 103)

Citations Affected: IC 28-7.

Synopsis: Regulation of pawnbrokers. Prohibits advertising by nonpawnbrokers that states or represents that the person or entity is a pawnbroker. Allows pawnbroking transactions involving multiple similar items without identification numbers to use quantity of items and physical description as the item description. Requires a description of the identification used for verification of an individual in a pawnbroking transaction. Provides for a daily calculation of a pawnbroking monthly service fee. Shortens the length of time after which the pawnbroker may sell pawned property from 90 days to 60 days. Adds a requirement that proof of stolen or converted property must be made in a court of law before a pawnbroker relinquishes first lien on all pledges for the amount of the loan, interest, and charges. Provides that pawnbroking transaction records are confidential, with exceptions for law enforcement disclosure of certain information.

Effective: July 1, 2001.

Porter, Frizzell, Oxley

January 11, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.
February 26, 2001, amended, reported — Do Pass.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1383

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 28-7-5-3 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2001]: Sec. 3. No person or entity shall engage
- 3 in business as a pawnbroker, act as a pawnbroker, ~~or advertise,~~ transact
- 4 or solicit business as a pawnbroker, **or use in an advertisement a**
- 5 **word, symbol, or statement that states or represents that the**
- 6 **person or entity is a pawnbroker,** except as authorized by this
- 7 chapter and without first obtaining a license from the department.
- 8 SECTION 2. IC 28-7-5-16 IS AMENDED TO READ AS
- 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The licensee
- 10 shall keep and use in his business such books, accounts, and records as
- 11 will enable the department to determine whether the licensee is
- 12 complying with this chapter and with the rules made by the department
- 13 under this chapter. Every licensee shall preserve such books, accounts,
- 14 and records, including cards used in the card system for at least two (2)
- 15 years after making the final entry on any loan recorded therein. The
- 16 books and records of the licensee shall be kept so that the pawnbroking
- 17 business transacted in Indiana may be readily separated and

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distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

(2) Amount of consideration.

(3) Name of pawnbroker.

(4) Description of each article sold. **However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any unique or special features.**

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

(1) Date of resale.

(2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

SECTION 3. IC 28-7-5-19 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) Every pawnbroker shall keep a record in ink that must include the following:

(1) The name, date of birth, and address of the pledger, or where the pledge is made by a person acting as agent for a disclosed principal, the names, dates of birth, and addresses of principal and agent.

(2) The date of the transaction.

(3) The amount of the loan.

(4) The article or articles pledged, **and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any unique or special features.**

(5) The serial number of the loan.

(6) The date on which each loan was paid in full, renewed, or unredeemed.

(7) An itemization of principal, interest, and additional fees collected.

(8) An itemization of fees authorized under IC 28-7-5-25.

(9) The total of all charges collected.

(10) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(b) Other methods of recording data, such as electronic or computerized methods, may be used provided written printouts or hard copies of the required data are readily available. The record keeping system of a licensee shall be made available in Indiana for examination. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

SECTION 4. IC 28-7-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. (a) The pawnbroker shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed **the following:**

(1) The name of the pledger.



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(2) The name of the pawnbroker and the place where the pledge is made.

(3) The article or articles pledged, **and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any unique or special features.**

(4) the amount of the loan;

(5) the date of the transaction;

(6) the serial number of the loan;

(7) the sum of the interest as provided in section 28 of this chapter and the charge as provided in section 28.5 of this chapter stated as an annual percentage rate computed in accordance with regulations issued by the Federal Reserve Board under the Federal Consumer Credit Protection Act (as defined in IC 24-4.5-1-302);

(8) the amount of interest;

(9) the amount of charge and principal due at maturity;

(10) a copy of sections 28, 28.5, and 30 of this chapter; ~~and~~

(11) the date of birth of the pledger;

(12) the type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification; and

(13) the date on which the pledged article or articles may be sold if the loan is not redeemed, renewed, or extended.

(b) A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with him.

SECTION 5. IC 28-7-5-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 28.5. **(a) Except as provided in subsection (b),** in addition to the loan finance charge authorized by section 28 of this chapter, a pawnbroker may charge, contract for, and receive a fee not to exceed one-fifth (1/5) of the principal amount of the loan per month or any fractional part of a

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month for servicing the pledge that may include investigating the title, storing, providing security, appraisal, handling, making daily reports to local law enforcement officers, and for other expenses and costs associated with servicing the pledge. Such a charge when made and collected is not interest and is not a rate under IC 35-45-7-1.

(b) If a loan is renewed or extended, the loan finance charge authorized by section 28 of this chapter accrues at a rate of one-thirtieth (1/30) of the loan finance charge each day beginning sixty (60) days after the original date of the loan, and continuing through and including, the day a pledger redeems the pledge.

SECTION 6. IC 28-7-5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 30. ~~A pawnbroker may sell an article pawned~~ After the expiration of ~~ninety (90)~~ **sixty (60)** days from the maturity of the loan, ~~provided that not less than ten (10) days before making the sale the pawnbroker gives notice to the pledger by mail addressed to the post office address of the pledger as shown on the pawnbroker's records notifying the person that unless the person redeems the article within ten (10) days from the date of the mailing, the a pawned article becomes the property of the pawnbroker and subject to sale. The pawnbroker becomes owner of all unredeemed pledges held for one hundred eighty (180) days after the maturity of the loan and no notice need be mailed to the pledger. A notice of pending sale mailed to a pledger under this section must be separate from other materials mailed.~~

SECTION 7. IC 28-7-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 39. **(a) Records and information generated by licensees in the course of their business are confidential under IC 5-14-3-4.**

(b) A law enforcement official may obtain or receive records and information described in subsection (a) relating to pawnbroking transactions for use in the official law enforcement purpose of investigating crime.

(c) Law enforcement officials may disclose the name and address of the pawnbroker to an adverse claimant in the case of a dispute over ownership of property in possession of the pawnbroker.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1383, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, delete "delivered." and insert **"delivered, including any unique or special features."**

Page 3, line 16, delete "delivered." and insert **"delivered, including any unique or special features."**

Page 4, line 9, delete "delivered;" and insert **"delivered, including any unique or special features."**

Page 5, line 4, delete "a service" and insert **"the loan finance"**.

Page 5, line 4, after "charge" insert **"authorized by section 28 of this chapter accrues at a rate"**.

Page 5, line 5, delete "monthly service" and insert **"loan finance"**.

Page 5, line 5, delete "accrues".

Page 5, delete lines 23 through 30.

Page 5, delete lines 36 through 41, begin a new paragraph and insert:

"(b) A law enforcement official may obtain or receive records and information described in subsection (a) relating to pawnbroking transactions for use in the official law enforcement purpose of investigating crime."

Renumber all SECTIONS accordingly.

and when so amended that said bill do pass.

(Reference is to HB 1383 as introduced.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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